alighted without injury and by want of due care contributed to her injury, the carrier was not liable, notwithstanding the car stopped away from the station platform, was not reversible error, as authorizing a passenger to disregard dangers, whether obvious or not.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 709; Dec. Dig. § 296 (4, 5).* 2 Va.-W. Va. Enc. Dig. 721.]

Error to Circuit Court, Bedford County.

Action by Eliza E. Tinsley against the Chesapeake & Ohio Railway Company. Judgment for plaintiff, and defendant brings error. Affirmed.

Harrison & Long, of Lynchburg, for plaintiff in error.

Jno. L. Lee, of Lynchburg, and *W. K. Allen,* of Amherst, for defendant in error.

LOUISVILLE & N. R. CO. *v.* O'NEIL.

Sept. 11, 1916.

[89 S. E. 862.]

1. Railroads (§ 71*)—Right of Way—Purchase—Easement of Vendor.—A railroad buying a right of way through a farm, across which was an established pathway, then and for many years before used by the grantors and by occupants of several small houses on the farm in passing to and from the land on the two sides thereof and as an outlet to the public road, takes it subject to their right to use the pathway; especially where the deed recognizes the existence of easements of private way left appurtenant to the land retained by the grantors, by provision for erection and maintenance by the grantee of suitable and necessary crossings.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 167; Dec. Dig. § 71.* 11 Va.-W. Va. Enc. Dig. 553.]

2. Railroad (§ 113 (2)*)—Obstruction of Pathway—Duty of Rightful User.—Where a railroad, by removing a gate, erecting a wire fence, and building steps over it, obstructs a pathway across its right of way, which an occupant of adjoining land has an absolute right to use, it owes him at least the duty to use due care to so construct the obstruction that it shall be reasonably safe, as compared with the gateway, for his use.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 353; Dec. Dig. § 113 (2).* 11 Va.-W. Va. Eng. Dig. 553.]

3. Railroads (§ 114 (4)*)—Obstruction of Pathway—Injury—Contributory Negligence.—Whether one having a right to use a pathway over a railroad right of way and injured in attempting to get over the

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

company's obstruction, a wire fence, with steps over, except that a barbed wire extended above, was free from contributory negligence, held, under the evidence, a question for the jury.

[Ed. Note.—For other cases, see Railroads, Cent. Dig. § 371; Dec. Dig. § 114 (4).* 11 Va.-W. Va. Enc. Dig. 553.]

4. Trial (§ 54 (1)*)—Reception of Evidence—Effect of Admission.—A deed admitted in evidence being properly admissible to show how defendant acquired its right of way, and the consequent relation of the parties, was properly in evidence for consideration for all purposes.

[Ed. Note.—For other cases, see Trial, Cent. Dig. § 126; Dec. Dig. § 54 (1).* 5 Va.-W. Va. Enc. Dig. 316.]

Error from Circuit Court, Wise County.

Action by W. M. O'Neil against the Louisville & Nashville Railroad Company. Judgment for plaintiff, and defendant brings error. Affirmed.

R. T. Irvine, of Big Stone Gap, for plaintiff in error.

A. N. Kilgore, of Wise, for defendant in error.

STUART et al. *v.* MEADE.

Sept. 11, 1916.

[89 S. E. 866.]

1. Adverse Possession (§ 66 (2)*)—What Constitutes—Notice.—Landowners erected a division fence under an agreement that neither party should have any advantage over the other by reason of the fence not being on the true line, and that when it should be reset it should be placed on the true line. The fence was not on the true line, and defendants' grantor was given possession of land belonging to plaintiff's grantor. Held, that as the occupancy of their grantor and of defendants themselves was begun in privity with the true owner, a higher degree of notoriety was necessary than in ordinary cases for it to become adverse.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

2. Adverse Possession (§ 66 (2)*)—What Constitutes—Notice.—In such case, the fact that the defendants' grantor whose agent, the husband of one of the defendants, had managed the land for many years, transferred it to defendants will not enable defendants' subsequent possession to ripen into adverse title; there being no notice to the adjoining landowner that the nature of the possession had changed.

[Ed. Note.—For other cases, see Adverse Possession, Cent. Dig. §§ 378-383; Dec. Dig. § 66 (2).* 1 Va.-W. Va. Enc. Dig. 205.]

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*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.